

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Carl T. Nelson
Serial No. :
Filed : Herewith
As a Continuation of Application
Serial No. : 932,158
Filed : November 18, 1986
For : SWITCHING VOLTAGE REGULATOR CIRCUIT
Examiner : Kristine Peckman
Group Art Unit : 212

DECLARATION OF NELLO SEVASTOPOULOS

I, Nello Sevastopoulos, a citizen of the United States and presently residing at 1233 University Avenue, San Jose, California 95126, hereby declare that:

1. I am employed by Linear Technology Corporation (hereafter "LTC") of Milpitas, California, and have been employed by LTC since 1984.
2. During the period of my employment by LTC, I have held the position of design engineer, with particular responsibility for the design of LTC's active filter products.
3. In late October 1985, I prepared a series of "viewgraphs" or transparencies relating to a 5-pin integrated switching voltage regulator chip which at the time was being designed by another LTC employee, Carl T. Nelson, and which is now marketed by LTC as the LT-1070.
4. Annexed hereto as Exhibits A-1 through A-10 are copies of all of the viewgraphs which I prepared relating to the LT-1070. The viewgraphs were prepared from materials provided to me by Mr. Nelson.

5. On October 29, 1985, I visited the premises of Standard Radio and Telephone (hereafter "Standard Radio") in Sweden. On information and belief, Standard Radio is a Swedish corporation and a subsidiary of International Telephone & Telegraph Co., Inc. At the time, Standard Radio was a customer of LTC.

6. At Standard Radio, I made a presentation before six of its system design engineers. The presentation primarily concerned LTC's active filter products, and was intended to familiarize the engineers with those products.

7. During the Standard Radio presentation, I mentioned that LTC would be coming out with a switching voltage regulator integrated circuit in a 5-pin package sometime after Christmas 1985. In connection with my reference to the LT-1070 at the presentation, I placed Exhibits A-1 through A-7 on an overhead projector. Exhibits A-1 and A-2 showed simplified "textbook" configurations of switching voltage regulator circuits, and were shown for background purposes. Exhibits A-3, A-4 and A-5 showed how the LT-1070 would be able to be employed to implement certain of those textbook circuits, and were presented to show how the LT-1070 might fill the needs of a systems design engineer. Exhibits A-6 and A-7 provided a chronology of developments in the field of voltage regulators, and were presented to show how the LT-1070 compared to other products in the field. Exhibits A-8, A-9 and A-10 were not shown or discussed at the October 29 presentation. No copies of any of the viewgraphs, Exhibits A-1 through A-10, were provided by me to anyone at the Standard Radio presentation.

8. At the October 29 presentation to Standard Radio's engineers, I did not offer the LT-1070 for sale and I did not take any orders for it. I did not disclose any

information concerning the internal circuitry or operation of the LT-1070. I made the presentation of the LT-1070 viewgraphs in confidence, with the belief that the information relating to LTC's LT-1070 which I provided during the engineering discussions was not to be passed on to anyone not attending the presentation, not even to other employees of Standard Radio.

9. Other than the presentation which I made at Standard Radio, I have not shown to or discussed with any person outside of LTC any of the LT-1070 viewgraphs, Exhibits A-1 through A-10. I have had exclusive possession of the viewgraphs between the time that I prepared them and the filing date of the above-identified United States patent application. To the best of my knowledge, prior to the filing date of the above-identified United States patent application, no copies have ever been made of the viewgraphs and no one other than myself has ever displayed the viewgraphs.

10. Commencing November 4, 1985, and continuing until November 8, 1985, I attended the Salon de Compaisants, a trade show held in Paris, France. At the Paris show, LTC displayed a poster relating to the LT-1070. Annexed hereto as Exhibit B is a reduced copy of that poster. The poster was displayed inconspicuously in LTC's trade booth.

11. During the entire course of the trade show, I spoke with only one person about the LT-1070. That individual, whose name I no longer recall, was a power supply designer and was a representative of the French telecommunications industry. He approached the booth and asked me about a specific application for the LT-1070. It was quickly determined that the LT-1070 would not be suitable

for the application which the individual described, and I, and to the best of my knowledge other LTC employees, have had no further contact with that individual.

12. I am informed and I believe that there were no other discussions relating to the LT-1070 between LTC personnel attending the trade show and others at the show. The LT-1070 was not available for sale, and was not being offered for sale, at the Paris show. No samples of the LT-1070 were handed out, no offers to sell the LT-1070 were made, and no orders were submitted or taken for it.

13. On November 11, 1985, I visited the premises in Great Britain of Thorn-EMI, a British company, and met with several engineers of that company to discuss LTC's active filter products. During the meeting, I mentioned that LTC would be coming out with a 5-pin switching voltage regulator integrated circuit having an internal switch some time after Christmas 1985. I disclosed no other details about the LT-1070. No samples of the LT-1070 were handed out, no offers to sell the LT-1070 were made, and no orders were submitted or taken for it.

14. Prior to the filing date of the above-identified United States patent application, I never offered the LT-1070 for sale, nor did I have authority to do so, it being LTC's policy that engineers are not authorized to offer products for sale. I never stated or suggested that the LT-1070 was available for sale since the LT-1070 at that time was not a part of LTC's product line. I never provided any samples of the LT-1070 to any person outside of LTC, and never took any orders for the LT-1070.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further

that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application in connection with which this declaration is being submitted the Patent and Trademark Office, or any patent issued thereon.

Dated: June 29th, 1987

Nello S. Sevastopoulos
Nello Sevastopoulos

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Milpitas, California 95035

Hon. Commissioner of Patents
 and Trademarks
 Washington, D.C. 20231

DECLARATION OF DERRICK BERRY

I, Derrick Berry, a citizen of the United States residing at 5547 Walnut Blossom Drive, San Jose, California 95123, hereby declare that:

1. I am currently employed by Linear Technology Corporation ("LTC") of Milpitas, California, and have been employed by LTC since July 16, 1984. My current position at LTC is samples coordinator. I have been employed by LTC in that capacity since November 14, 1985.

2. As samples coordinator for LTC, I am and have been responsible for receiving all requests for samples of LTC devices and for packaging those samples in response to the requests. I am familiar with the procedures and documentation used at LTC since 1985 pertaining to sample requests.

3. Sample requests originally are unsolicited.

When a sample request is received, I, as samples coordinator, transfer information regarding the request to a sample request form. The information transferred usually includes the date of the request, the part number and quantity of samples requested, the name of the person making the request, and the person (if any) for whom the samples are requested. If the request is for production samples of a device within LTC's product line, I obtain the requested samples from LTC's finished stock. If the request is for engineering samples of a device not yet within LTC's product line, I obtain the requested samples from the engineering department. In either case, I then package the samples in preparation for shipment. The date on which I obtain and package the samples is recorded on the sample request form as the "ship date".

4. Samples normally are shipped by LTC via United Parcel Service ("UPS"). Samples to be shipped by UPS are picked up by UPS on or after the "ship date" set forth on the sample request forms. On occasion, however, samples also may be shipped by Federal Express or by direct pick up from LTC by the person making the request. If a sample request is to be shipped other than by UPS, that information is entered on the sample request form.

5. The information contained on the sample request forms for all sample requests which are packaged in preparation for shipment, including those to be shipped by UPS, Federal Express or direct pick-up, is maintained by a computer. Sample request forms, however, are not retained.

6. I have used the procedures and documentation described in Paragraphs 3-5, above, with respect to the handling of sample requests since November 14, 1985 when I became samples coordinator and, upon information and belief, LTC used them since at least the beginning of 1985.

7. For the purpose of determining whether or not any LT-1070 samples may have been shipped by LTC prior to November 18, 1985, I searched the records maintained by the computer referred to in Paragraph 5, above. The search found only two LT-1070 sample requests which were recorded as having a "ship date" prior to November 18, 1985. A copy of a computer printout listing those two requests, entitled "NOV. 85 HISTORY", is annexed as Exhibit A.

8. Referring to Exhibit A, the "PART TYPE", "RFM" (representative firm) and "REQ DATE" (request date) columns indicate that requests for LT-1070 engineering samples ("ENS") were respectively received on November 6 and 15, 1985 from two of LTC's independent sales representatives: Gassner & Clark of Cedar Rapids, Iowa, and ISDS of Agoura Hills, California. The "QTY" (quantity) column indicates that three LT-1070 engineering samples were requested by Gassner & Clark, and five LT-1070 engineering samples were requested by ISDS. As explained in Paragraph 3, above, with regard to sample request forms, the "SHIP DATE" column in Exhibit A indicates the date on which requested samples were packaged, not the date on which samples were shipped. Thus, Exhibit A indicates that the samples requested by Gassner & Clark and ISDS were packaged on November 15, 1985.

9. On information and belief, based upon Exhibit A, any shipment to Gassner & Clark or ISDS of the engineering samples which were packaged on November 15, 1985 would have been shipped by UPS. To determine whether or not those

samples were shipped and, in so, when, I searched LTC's shipping records, including LTC's UPS Pickup Records, for any reference to a shipment to Gassner & Clark or ISDS. A copy of a November 21, 1985 UPS Pickup Record located by the search is annexed as Exhibit B.

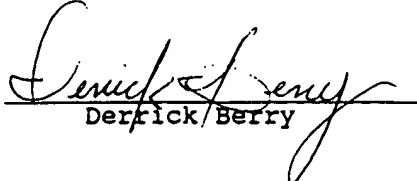
10. Exhibit B indicates that packages addressed to Gassner & Clark and ISDS were shipped on November 21, 1985. LTC's UPS shipping records contain no other reference to any shipment to either of those firms between November 15, 1985 and November 21, 1985. Therefore, I conclude that the LT-1070 engineering samples requested by Gassner & Clark and ISDS were shipped, if at all, on or after November 21, 1985.

11. In addition to the two sample requests indicated on Exhibit B, LTC received numerous other unsolicited requests for LT-1070 samples prior to November 18, 1985. However, no LT-1070 devices were shipped in response to any of those requests prior to November 18, 1985. For example, annexed as Exhibits C and D are copies of printouts from the computer referred to in Paragraph 5, above, entitled "DEC. 85 HISTORY" and "SAMPLE SHIPMENTS FOR JAN '86", respectively. Exhibits C and D indicate that LTC received at least 24 additional requests for LT-1070 samples prior to November 18, 1985, and packaged samples in response to those requests in December 1985 or January 1986.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the

application in connection with which this declaration is
being submitted to the Patent and Trademark Office, or any
patent issued thereon.

Dated: 7-14-87


Derrick Berry

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Milpitas, California 95035

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

DECLARATION OF ROBERT C. SCOTT

I, Robert C. Scott, a citizen of the United States
residing at 6581 Springpath Lane, San Jose, California 95120,
hereby declare that:

1. I am presently employed by Linear Technology
Corporation (hereafter "LTC") of Milpitas, California, as
Marketing Manager. I have been employed by LTC in that
capacity since May 31, 1982.

2. As Marketing Manager for LTC, I am and have
been responsible for marketing LTC's products, including
establishing customer quotes, disseminating information
regarding LTC's products to the sales force and to customers,
and providing technical feedback from the field to the
factory. I am familiar with LTC's sales and marketing
procedures and documentation.

I informed LTC's sales representatives in words or in substance that LTC was developing and they should expect sometime in the future a new 5-pin switch mode control integrated circuit to be known as the LT-1070. I did not provide technical details about the LT-1070 at that time, however, because the LT-1070 was not yet available for sale and LTC did not intend for any sales representative to offer it for sale. My purpose in telling the sales representatives about the LT-1070 was solely to have them identify and familiarize themselves with companies which use or design switch mode control circuits, and to consider which of those companies might have use for a 5-pin switching voltage regulator integrated circuit.

4. During the period July 21 through July 23, 1985, LTC hosted a confidential meeting at the Marriott Hotel in Santa Clara, California for about 200 of its independent sales representatives and distributors. One of the purposes of the meeting was to inform those attending of new and future LTC products, including recently announced products which were available for sale as well as unannounced products which were still being developed but which were not yet available for sale.

5. The July 1985 meeting program included general audience sessions held each morning on various broad topics, and small group sessions held each afternoon on more specific topics. During one of the general audience sessions, I discussed a list of new products, including unavailable and unannounced products such as the LT-1070, and provided a brief commentary on each item on the list. Again, my purpose in providing information about the LT-1070, and other unannounced and unavailable LTC products, was solely to

identify and familiarize themselves with potential users of the product.

6. The persons attending the July 1985 meeting were each provided with a copy of a training manual. The training manual included a "New Product Update" list of the devices which I discussed during my presentation, setting forth for each a part number, a one or two sentence description of the device, and projected dates of when data sheets for, and engineering samples and production quantities of, the device would be available. I displayed a duplicate of the list on a slide projector during my presentation. Annexed as Exhibit A is a copy of the New Product Update list which I displayed including an entry for the LT-1070.

7. As shown in Exhibit A, the New Product Update list stated that the LT-1070 is a "switcher," that data sheets and engineering samples were tentatively scheduled to become available in the fourth quarter ("4Q") of calendar year 1985, and that production was tentatively scheduled to begin in the first quarter ("1Q") of calendar year 1986. The sales representatives were not given any specific information regarding pricing or the internal circuitry or operation of the LT-1070.

8. On information and belief, in September 1985 Robert Dobkin, Vice President of Engineering of LTC, and an LTC independent sales representative visited two LTC customers for the purpose of discussing various LTC products. Also on information and belief, Mr. Dobkin during those meetings mentioned in words or in substance that a new switching voltage regulator, to be known as the LT-1070, would be coming from LTC in the future. I am informed and I

or provide any information regarding the LT-1070's circuitry or operation, and did not offer the LT-1070 for sale.

9. From time to time, LTC receives sample requests for devices which are within LTC's product line and available for sale, as well as for rumored and unannounced devices which are not within LTC's product line and not available for sale. Sample requests for rumored or unannounced devices typically are unsolicited requests made by LTC's independent sales representatives and distributors.

10. Sample requests received by LTC are entered into a computer. For the purpose of identifying requests for and shipments of LT-1070 devices prior to November 18, 1985, if any, I caused a search to be made of the data records maintained by that computer as well as of other LTC records. I participated in the search. The search revealed that several LT-1070 sample requests were received by LTC prior to that date (for example, annexed as Exhibit B is a copy of a November 14, 1985 telex from Jermyn, S.A., an LTC European independent distributor located in France, requesting a quantity of 4 LT-1070 samples). On information and belief, however, those sample requests were not solicited by LTC, and no shipments or deliveries of LT-1070 devices were made in response to those requests prior to November 18, 1985.

11. The search referred to in Paragraph 10, above, also revealed, to the best of my recollection, what appeared to be an order for a production quantity of 50 LT-1070 devices received on or about November 14, 1985 from Jermyn, S.A. I recall that the order was received by telex, a copy of which I believe I saw but which, despite a search, has not been located. On information and belief, however, LTC had not offered the LT-1070 for sale to Jermyn or otherwise

which I caused to be made and in which I participated, and on information and belief, LTC did not acknowledge or ship any LT-1070 devices in response to that order.

12. During or about November 1, 1985, I provided LTC's sales representatives and independent distributors with a brief highlight on the as yet unannounced LT-1070, informing them to "[b]e on the watch next month for a full product bulletin including details on pricing, samples, production availability and media coverage introducing the LT-1070." That highlight was presented on page 4 of the November 1985 issue of Linear Newsline (a copy of that issue is annexed as Exhibit C). Linear Newsline is, and was in 1985, a company newsletter distributed by LTC on an intended confidential basis to its employees and independent sales representatives and distributors. The November 1985 issue of Linear Newsline also included, on page 2, a "Design Help List" identifying "CN" (Carl Nelson) as the engineer at LTC to be contacted about applications information for the LT-1070 when the device became available.

13. On November 6, 1985, I transmitted a telex internally to LTC's area sales managers to provide a general status report about the still unannounced LT-1070, and to advise them to consider carefully to whom LT-1070 samples should go once they become available. A copy of that telex is annexed as Exhibit D.

14. The second paragraph of my November 6, 1985 telex (Exhibit D) states that LTC had received "several requests for samples and even production orders" for the LT-1070. I was there referring to unsolicited requests and orders. The second paragraph of my telex also states that LT-1070 samples were being "readied for shipping during the

devices were offered for sale or shipped by LTC prior to November 18, 1985.

15. The last paragraph of my November 6, 1985 telex states that orders for the LT-1070 "can be booked", but "formal schedules" could not be "acknowledged" for about 4 weeks. I made this statement at that time based upon a belief that the LT-1070 was about to become a part of LTC's product line. In fact, however, as discussed further in paragraph 16, below, the LT-1070 did not become a part of LTC's product line prior to November 18, 1985, and orders for the device could not have been "booked" before that date.

16. Annexed as Exhibit E is a copy of a Released Product Listing Form ("RPL") for the LT-1070 which issued November 18, 1985 and was approved by various department managers, including me. An RPL is a controlled document at LTC which must be issued for a new device before that device may become a part of LTC's product line. It is now, and it was in November 1985, company policy at LTC that a device could not be sold or offered for sale, and no order for a device could be "booked" or "acknowledged", prior to the issuance of an RPL for the device. The RPL for the LT-1070, Exhibit E, confirms that prior to November 18, 1985 the LT-1070 was not a part of LTC's product line, the LT-1070 was not authorized to and could not be sold or offered for sale as an LTC product, and orders for the LT-1070 were not authorized to and could not be booked or acknowledged.

17. On November 25, 1985, LTC acknowledged two orders earlier received from Jermyn, S.A. A copy of that acknowledgment is annexed as Exhibit F. As indicated by the acknowledgment in the columns labelled "Customer Requested", an order for a quantity of 150 LM117HVK/883 devices was

order, for a quantity of 50 LT-1070CT devices, is indicated as having been received by LTC on November 19, 1985 ("111985").

18. From November 19-22, 1985, LTC participated in a trade show in San Francisco, California known as Wescon/'85. I attended that trade show. At the show, LTC publicly distributed copies of its 1986 Data Book. That Data Book included a preliminary data sheet for the LT-1070 (a copy of pages 10:14-10:17 of the Data Book, including the preliminary LT-1070 data sheet, is annexed as Exhibit G). On information and belief, neither the preliminary data sheet nor the 1986 Data Book was publicly available or distributed by LTC prior to November 19, 1985.

19. Annexed as Exhibit H is a copy of the December 1985 issue of LTC's Linear Newslines. That issue contained at pages 1-2 the first official announcement and introduction of the LT-1070 to LTC's employees, sales representatives and distributors.

20. Annexed as Exhibit I is a copy of a reprint of an article relating to the LT-1070 which appeared in the December 26, 1985 issue of Electronic Design magazine. This was the first article to appear in the trade press regarding the LT-1070.

21. Annexed hereto as Exhibit J is a copy of a January 15, 1986 press release issued by LTC. That press release formally introduced the LT-1070 to the public.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable

Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application in connection with which this declaration is being submitted to the Patent and Trademark Office, or any patent issued thereon.

Dated: _____

7-29-87



Robert C. Scott

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and Trademarks
Washington, D.C. 20231

DECLARATION OF HANS J. ZAPF

I, Hans J. Zapf, a citizen of West Germany residing at 80 Jennings Lane, Atherton, California 94025, hereby declare that:

1. I am presently employed by Linear Technology Corporation (hereafter "LTC") of Milpitas, California, as Director of International Sales. I have been employed by LTC in that capacity since June 1982.

2. As Director of International Sales for LTC, I am and have been responsible for building LTC's international sales network, training LTC's independent international sales representatives and distributors, and managing LTC's international sales organization and effort. I am familiar with LTC's sales and marketing procedures and documentation.

3. During November 4-6, 1985, LTC participated in a trade show in Paris, France, known as Salon des Composants. I attended that trade show. On November 6, 1985, I gave a presentation in Paris to a few of LTC's independent European distributors. The presentation was intended to be confidential between LTC and its European distributors. Towards that end, the presentation was held behind closed-doors and attendance was by invitation only. The presentation was not part of the trade show, was not open to the general public, and as far as I am aware no one from the general public attended. Approximately 7-9 of LTC's European distributors, represented by about 12-13 people, attended the presentation. On information and belief, none of the attending distributor organizations was a United States company, and none of the individual representatives of those organizations resided in the United States. Annexed as Exhibits A and B, respectively, are copies of a September 19, 1985 telex and an October 17, 1985 telex which I sent to 9 of LTC's European distributors inviting them to the presentation.

4. At the presentation, which lasted about two and one-half hours, I discussed LTC products which were available for sale, as well as products which would be forthcoming within the next two to three months but which had not yet been announced and were not yet available for sale. One of the unannounced and unavailable products which I discussed at my presentation was the LT-1070.

5. My purpose in telling LTC's independent European distributors at the presentation about the forthcoming LT-1070 was to provide them with some advance information about what the device was going to be so that they would be generally aware of the device and its

capabilities when it became available for sale, and so that they could familiarize themselves with and think about what companies might have an interest in and use for the device. I did not offer the LT-1070 for sale at the presentation, nor did I demonstrate or distribute any samples of it. I specifically stated that the LT-1070 was not available for sale.

6. I discussed the LT-1070 during the November 6 presentation for no more than about one-half hour. I explained in words or in substance that the LT-1070 was going to be a 5-pin switch-mode voltage regulator integrated circuit which was fully self-contained by including the power switch and control circuitry on the integrated circuit. I briefly discussed the functions of its pins, that the device could be used in both feedback and fully isolated flyback modes, and some examples of application circuits using the device. In connection with this discussion, I displayed on an overhead projector 17 transparencies which I had prepared in the United States with the assistance of Carl Nelson, an LTC engineer and the person who I understood designed the LT-1070.

7. Annexed as Exhibits C-1 through C-17 are copies of all of the transparencies referred to in Paragraph 6, above, relating to the LT-1070 which I displayed at the November 6, 1985 presentation. No copies of any of these transparencies were made by me or, on information and belief, by anyone else at the November 1985 presentation or trade show. Neither I nor, on information and belief, anyone else made any copies of any of the transparencies prior to November 18, 1985. From the time I prepared them until at

least February 1986, I had exclusive possession of the transparencies. I did not again show or display any of the transparencies to any person until February 1986.

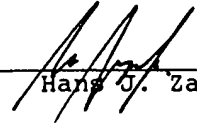
8. From time-to-time during November 4-8, 1985, I manned the LTC booth at the Paris trade show and met with others who were customers or potential customers of LTC. During that period of time, I did not discuss the LT-1070 with others, did not hand out any samples of the LT-1070, did not offer the LT-1070 for sale, and took no orders for the LT-1070.

9. Annexed as Exhibit D are copies of preliminary data sheets for LTC's LT-1070 and LT-1071 integrated circuits. On information and belief, copies of those preliminary data sheets were printed for possible use at the Paris trade show, and were shipped to an LTC European distributor in France for delivery to me, on or about October 29, 1985. On information and belief, those data sheets were shipped along with other materials (including some integrated circuit filters). However, I never received those data sheets or other materials and, on information and belief, no one else associated with LTC received them, during the Paris show. Those data sheets were not received because they got lost in shipment. On information and belief, the shipment was not located until after November 18, 1985. I did not publicly or otherwise distribute any data sheets for the LT-1070 or LT-1071 devices nor, on information and belief, did anyone else, prior to November 18, 1985.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further

that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application in connection with which this declaration is being submitted to the Patent and Trademark Office, or any patent issued thereon.

Dated: 7-28-87



Hans J. Zapf